IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 9375 of 2002

For Approval and Signature:

Hon'ble MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

JABUBEN W/O. AMRATBHAI R. VAGHRI

Versus

COMMISSIONER OF POLICE

Appearance:

1. Special Civil Application No. 9375 of 2002

MR SATISH R PATEL for Petitioner No. 1

MR MK PATEL, AGP for Respondent No. 1-3

CORAM : MR.JUSTICE P.B.MAJMUDAR

Date of decision: 12/03/2003

ORAL JUDGEMENT

#. By filing this petition, the petitioner-detenu has challenged her detention order dated 7.8.2002. By the

impugned order, the petitioner-detenu is detained in exercise of the powers under section 3(1) of the Gujarat Prevention of Antisocial Activities Act,1985 (hereinafter referred to as "the PASA" for short), as, the detaining authority found that the detenu is a "bootlegger" and is required to be detained under the preventive detention, so that, she may not continue with such type of illegal activities.

#. Along with the detention order, the detenu was also served with the grounds of detention of the same date. In the said grounds, there is a reference about four criminal cases, which are pending against the petitioner under the Bombay Prohibition Act. It is alleged against the petitioner that the petitioner is dealing in illicit liquor and she is selling the same. The authority has also considered statements of some witnesses. The detaining authority, after having been satisfied on the basis of the materials on record that the petitioner is a bootlegger, has passed the detention order.

#. At the time of hearing of this petition, it is argued by the learned advocate for the petitioner that, there is a delay in deciding the representation and the said delay is not explained. The petitioner made a representation on 30.9.2002 through her advocate. The said representation was made to the Home Ministry by registered post A.D. As per the averments made in para 19-A of the petition, the same was received by the office of the department on 1.10.2002 and the same was ultimately decided on 7.10.2002. It is submitted that there is a delay of about 6 days in deciding the representation. These averments in the petition are not controverted by the concerned department of the State by filing a reply. In that view of the matter, since this delay is not explained, on the ground of not deciding the representation promptly and also on the ground that the delay in deciding the representation is not explained by the authority, the order of detention is required to be set aside.

#. In view of what is stated above, the petition is allowed. The order of detention dated 7.8.2002 is quashed and set aside. The detenu Jabuben, w/o Amratbhai Ramabhai Vaghri, is ordered to be set at liberty forthwith if she is not required in connection with any other case. Rule is made absolute accordingly.

(P.B.Majmudar,J)
(pathan)